JPA No.: 03-025I

AG Contract No.: KR03-0526TRN

Amendment No. 2
Project No.:HRF-ORV-0-747

Project: First Avenue
TRACS No.: HF04703C
HURF Exchange Program

### AMENDMENT NO. 2 TO INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
TOWN OF ORO VALLEY

#### I. RECITALS

- 1. The State is empowered by Arizona Revised Statutes § 28-401 and 286993(g) to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
- 2. The Town is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Town.

The parties agree to amend the funding amounts for fiscal year 2006 and 2007.

### Article I, Paragraph 3, is deleted and replaced in full as follows:

3. The State has approved the exchange of \$1,350,000.00 Highway User Revenue Funds (HURF) to the Town for the construction of improvements to First Avenue, and such funds will be repaid to the State by withholding from the Pima Association of Governments (PAG) federal funds and the obligation authority for federal funds in the amount of \$1,594,052.00 in fiscal year 2007.

**THEREFORE**, in consideration of the mutual Agreements expressed herein, this Agreement is amended as follows:

NO. 20203
Filed with the Secretary of State Date Filed: 5/14/0
Secretary of State

#### II. SCOPE OF WORK

#### Article II, Paragraph ...

- 1. The State shall:
- a. Within 30 days after receipt and approval of construction invoices, advance the Town HURF funds for thirty percent of the project costs at the start of construction, for thirty percent of the project cost at the thirty percent completion stage, for thirty percent of the project cost at the sixty percent completion stage, and for ten percent of the project at the one hundred percent project completion stage, at a total amount of \$6,961,500.00 for construction.
- b. Withhold from PAG, federal funds and the obligation authority of federal funds in the amount of \$8,219,993.00 in Fiscal Year 2007 for construction.

**EXCEPT AS AMENDED** herein, **ALL OTHER** terms and conditions of the original Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amended Agreement the day and year first above written.

TOWN OF ORO VALLEY

STATE OF ARIZONA

Department of Transportation

PAUL LÓOMIS

Mayor

DALE BUSKIRK
Division Director

ATTEST:

KATHRYN CUVELIER

Clerk

G:03-025-Oro Valley-Amend 2-First Avenue-8 December 2006-cc

## ATTORNEY APPROVAL FORM FOR THE TOWN OF ORO VALLEY

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the TOWN OF ORO VALLEY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

day of

DATED this

**\_\_\_\_\_**, 2007.

Town Attorney

## RESOLUTION NO. (R) 07-37

A RESOLUTION OF THE TOWN OF ORO VALLEY TO AMEND AN INTERGOVERNMENTAL AGREEMENT ("IGA") WITH THE STATE OF ARIZONA FOR THE HURF EXCHANGE FUNDS FOR THE FIRST AVENUE WIDENING: CDO TO TANGERINE ROAD, PROJECT NO. OV 30 00/01 08.

WHEREAS, the Town of Oro Valley, pursuant to Arizona Revised Statute §11-951 et seq., is authorized to amend intergovernmental agreements for joint and cooperative action with other public entities; and

WHEREAS, the State of Arizona, Department of Transportation and the Town of Oro Valley wish to amend an Intergovernmental Agreement for the construction of the First Avenue Widening from CDO to Tangerine Road; and

WHEREAS, the Town will design, construct and provide maintenance and operational responsibilities for that portion of the First Avenue Widening from CDO to Tangerine Road; and

WHEREAS, it is in the best interest of the Town of Oro Valley to amend the Intergovernmental Agreement, attached hereto as Exhibit "A", with the State of Arizona, Department of Transportation and that Mayor and Council of the Town of Oro Valley is authorized to approve such Agreement.

## THEREFORE, BE IT RESOLVED, BY THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA:

1. That the Mayor and other appropriate administrative officials of the Town of Oro Valley are hereby authorized to take such steps as are necessary to execute and implement the terms of the Intergovernmental Agreement.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona this 21st day of March, 2007.

## TOWN OF ORO VALLEY, ARIZONA

Paul H. Loomis, Mayor

ATTEST:

Kathryn E. Cuvelier, Town Clerk

3-23-07

Date

APPROVED AS TO FORM:

Melinda Garrahan, Town Attorney

3/22/07

Date



TERRY GODDARD Attorney General

## OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA

CIVIL DIVISION
TRANSPORTATION SECTION
Writer's Direct Line:
602.542.8855
Facsimile: 602.542.3646
E-mail: Susan Davis@azag.gov

# INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR03-0526TRN (JPA 03-025-I, Amendment No. 2), an Agreement between public agencies, i.e., The State of Arizona and Town of Oro Valley, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: May 7, 2007

TERRY GODDARD Attorney General

SUSAN E. DAVIS

Assistant Attorney General Transportation Section

SED:mjf:1012040 Attachment